

Appl. No. 09/529,575
Docket No. 7042RL+
Amdt. dated January 2, 2007
Reply to Office Action mailed on Oct. 3, 2006
Customer No. 27752

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REMARKS

Claim Status

Claims 31, 32, 36, 42-44, 46, 48, 52 and 53 are pending in the present application. No additional claims fee is believed to be due.

Claim 31 has been amended to more clearly define the article in accordance with the teachings of the specification, for example, at page 11, lines 24-26.

It is believed these changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested.

Rejection Under 35 USC §102 Over Klofta

Claims 31, 32, 36, 41-44, 46, 48, 52 and 53 have been rejected under 35 U.S.C. 102(e) as being anticipated by Klofta (US 6,238,682). The Office Action asserted that Klofta discloses an absorbent article comprising a liquid permeable topsheet, as described in column 5, lines 49-55, and a delivery system for releasably containing and delivering a protease inhibitor, as described in column 13, lines 7-9 and column 15, line 67. The Examiner further asserted that with respect to claim 46, the protease inhibitor is an emulsion and that with respect to claims 52 and 53 Applicants have not shown that the application of the skin care composition in a non-uniform manner solves any stated problem or serves any particular purpose.

However, as will be set forth in detail below, it is believed that the disposable wearable article defined by claim 31 is not anticipated by Klofta. Accordingly, this rejection is traversed and reconsideration is respectfully requested.

Klofta discloses anhydrous skin lotion compositions having antimicrobial components and to tissue paper, for example facial tissue, toilet tissue and paper towels, treated with such compositions. However, claim 31 is directed to a disposable wearable article such as sanitary napkins, panty liners, diapers, incontinence briefs, incontinence pads, diaper holders and training pants. As such, Applicants submit that disposable

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wearable articles are not disclosed in Klofta. Furthermore, Klofta does not teach or disclose that the protease inhibitor is contained in an activatable delivery system wherein the system is activatable by moisture, heat, pressure or combination thereof as required by claim 31. Although Klofta discloses that the protease inhibitor hexamidine could be included in a lotion, its inclusion into an activatable delivery system is simply not taught. Contrary to the Office's statements that all elements are disclosed in Klofta, a disposable wearable article with topsheet having a protease inhibitor and an activatable delivery system for releasing the inhibitor is not disclosed by Klofta.

Moreover, Applicants submit that the lotions of Klofta are anhydrous, i.e. "without water" while the protease inhibitor according to claim 46 can be an emulsion, i.e. a mixture of oil and water. With respect to claims 52 and 53, Applicants direct the Office's attention to pages 50 and 51 of the specification which describes the benefits of applying a protease inhibitor nonuniformly to the wearer contacting surface of the article.

As stressed in MPEP §2131, a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Moreover, "The identical invention must be shown in as complete detail as contained in the . . . claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989) (emphasis added). Furthermore, not only must all the individual elements be found in a single document, but also they must be arranged as in the claim under review. *In re Raymond G. Bond*, 910 F.2d 831.

Because Klofta fails to meet the foregoing tests to support any rejection under §102, Applicants assert that independent claim 31 is in condition for allowance. Further, because claims 32, 36, 41-44, 46, 48, 52 and 53 depend directly or indirectly from claim 31, they too are not anticipated by Klofta and therefore, are in condition for allowance.

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Conclusion

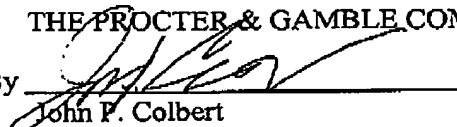
In light of the above remarks, it is requested that the Examiner reconsider and withdraw the rejection under 35 USC §102(e). Early and favorable action in the case is respectfully requested.

This response represents an earnest effort to place the application in proper form and to distinguish the invention as now claimed from the applied references. In view of the foregoing, reconsideration of this application, entry of the amendments presented herein, and allowance of Claims 31, 32, 36, 42-44, 46, 48, 52 and 53 is respectfully requested.

Respectfully submitted,

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